

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 31:180. Signature project refunds on construction costs.

5 RELATES TO: KRS 65.7045, 139.515, KRS 154.030-010~~[2008 Ky. Acts ch. 178, sees. 14,~~
6 ~~18]~~

7 STATUTORY AUTHORITY: KRS 131.130(1), 139.710

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the
9 Department of Revenue to promulgate administrative regulations necessary for the administration
10 and enforcement of all tax laws in Kentucky. KRS 139.710 authorizes the department to administer
11 the provisions of KRS Chapter 139, relating to the assessment, collection, refund, and
12 administration of taxes. KRS 139.515 requires sales tax refunds for qualified signature projects.
13 This administrative regulation establishes requirements for a sales and use tax refund relating to a
14 signature project.

15 Section 1. Definitions. (1) "Agency" is defined in KRS 65.7045(2).

16 (2) "Approved public infrastructure costs" is defined by KRS 154.030-010(3)~~[2000 Ky. Acts~~
17 ~~ch. 178, see. 14(3)].~~

18 (3) "Approved signature projects costs" is defined by KRS 154.030-010(4)~~[2008 Ky. Acts ch.~~
19 ~~178, see 14(4)].~~

20 (4) "Commencement date" is defined in KRS 65.7045(8).

21 (5) "Fiscal year" means the Commonwealth of Kentucky's accounting period which begins every

July 1 and ends on June 30 of the following year.

(6) "Purchaser" means the contractor, subcontractor, or other entity that purchases tangible personal property used in the construction of a signature project.

(7) "Signature project" is defined by KRS 139.515(1)(b) and KRS 154.030-010(26)~~[2008 Ky. Acts ch. 178, sec. 14(26)]~~.

(8) "Tangible personal property used in the construction of a signature project" is defined in KRS 139.515(1)(c).

(9) "Vendor" means an individual or entity from whom tangible personal property used in the construction of a signature project is purchased.

Section 2. Refund Application Requirements. (1) Requests for refunds shall be filed with the Department of Revenue annually by the agency within the sixty (60) day timeframe as provided for in KRS 139.515 and shall only cover purchases made after the "commencement date" of the project grant agreement.

(2) Refund requests shall be postmarked, electronically submitted or, if delivered by messenger, hand-stamped by the department by the date required and shall include the following:

~~[(1)]~~(a) Application for Kentucky Signature Project Sales and Use Tax Refund, Form 51A291;

(b) Information Sharing and Assignment Agreement for Designated Refund Claims, Form 51A290. The agency shall cause to be executed a separate Information Sharing and Assignment for Designated Refund Claims for every purchaser and vendor relationship. Each agreement shall be submitted to the Department of Revenue with the first request for refund that includes the purchaser vendor relationship filed after the execution of the agreement. Only one (1) agreement shall be required for each vendor and purchaser relationship for the life of the signature project;

(c) Expenditure Report for Signature Project Refunds, Form 51A292, from each purchaser

1 detailing all "tangible personal property used in the construction of the signature project" and the
2 total corresponding Kentucky sales and use tax paid;

3 (d) Sample invoices between each purchaser and vendor; and

4 (e) The percentage of each purchaser's "tangible personal property used in the construction of
5 the signature project" not included in the project grant agreement as approved public infrastructure
6 costs or approved signature project costs.

7 Section 3. Record-Keeping Requirements. The approved agency shall keep adequate and
8 complete records supporting its refund request for periods not less than four (4) years as provided
9 for in KRS 139.720. The department may audit part or all of the records of all parties involved as
10 necessary to verify the refund request and to ensure compliance with KRS 139.515.

11 Section 4. Forms. The forms listed herein may be inspected, copied, or obtained, subject to
12 applicable copyright law, at:

13 (1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

14 (2) A Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.; or

15 (3) The department website at <http://revenue.ky.gov>.

16 ~~[Incorporation by Reference. (1) The following material is incorporated by reference:~~

17 ~~— (a) "Application for Kentucky Signature Project Sales and Use Tax Refund", Form 51A291~~
18 ~~(October, 2007);~~

19 ~~— (b) "Expenditure Report for Signature Project Refunds", Form 51A292 (October, 2007); and~~

20 ~~— (c) "Information Sharing and Assignment Agreement for Designated Refund Claims", Form~~
21 ~~51A290 (October, 2007).~~


22 ~~— (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at~~

23 ~~the Department of Revenue, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday,~~

1 ~~8 a.m. until 5 p.m.]~~

103 KAR 31:180

APPROVED BY AGENCY:



DANIEL P. BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

9/12/17

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov(email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 31:180

Contact Person: Lisa Swiger

Phone Number: (502) 782-5705

Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is an amendment that updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and KRS 131.131.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information contained in the regulation which reduces calls to the department and assists with compliance.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The current version of 103 KAR 31:180 contains unnecessary references to form dates and a previous address for the Department of Revenue as well as outdated contact information. Also, the current version of 103 KAR 31:180 references "2008 Ky. Acts ch 178" several times, which is updated to the correct statutory cite of KRS 154.030-010. This proposed amendment updates regulatory language to address these issues.

(b) The necessity of the amendment to this administrative regulation: To provide taxpayers and affected parties with the most recent up to date information for guidance.

(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to accurately reference the statutes and to conform with KRS 131.130 and KRS 131.131.

(d) How the amendment will assist in the effective administration of the statutes: Providing affected parties with accurate up to date information reduces calls to the department and assists with more efficient compliance of the statutes.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that access the amended regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the amended regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no cost to implement the proposed amendment.

(b) On a continuing basis: There is no cost on a continual basis to implement the proposed amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current department budgetary funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees or increase in funding is needed for the cleanup of this regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not) :No. Tiering is not applied to this administrative regulation as all affected parties will be treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 31:180

Contact Person: Lisa Swiger

Phone Number: (502) 564-9526

Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and KRS 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This amendment is only cleaning up outdated or incorrect language.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: